IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 20734 of 2004

Between:

Mohammed Sadiq, S/o Shaik Nanne Sahab,
r/o H.No. 1-4-6, R/o Sharbathi Canal,Ward No. 10, Bodhan, Nizamabad District.

..... PETITIONER

AND

The Commissioner, Municipal Council, City Municipality,
Bodhan,Nizamabad District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any appropriate Writ , order or direction more in the nature of Mandamus directing the Respondents neither to dispossess nor to lay any road for public purpose through the petitioner's open land measuring 10 x 80 feet situated in front of my house bearing No. 1-4-6 at Sharbathi Canal, Ward No.10, Bodhan, Nizamabad District without following due procedure under law i.e. without issuing any notice, without initiation of proceedings under the Land Acquisition Act for payment of compensation or payment of damages by duly declaring the action of the Respondents ie., the steps taken for laying the road through my open land measuring 10 x 80 feet situated in front of my house bearing No. 1-4-6 at Sharbathi Canal, Ward No.10, Bodhan, Nizamabad District without following any due procedure under land and without taking into consideration of the decisions rendered by this Hon'ble Court as illegal, arbitrary and contrary to the well settled principles of law.

Counsel for the Petitioner:MR.V.RAVI KIRAN RAO

Counsel for the Respondent: MR.THIMMA REDDY R.

The Court, at the stage of admission, made the following :

ORDER

Heard the learned counsel for the petitioner and the learned Standing Counsel for respondent, and both of them agreed for disposal of the writ petition finally at the stage of admission.

The petitioner claims to be owner of open land measuring 10x80 feet situated in front of his house bearing No.1-4-6 at Sharbathi Canal, Ward No.10, Bodhan, Nizamabad District. It is stated that the respondent-Municipality without following due procedure under law and without initiating proceedings under Land Acquisition, is taking steps for laying the road through the said open land.

In view of the above, the respondent is under obligation to follow the due procedure of law for taking possession of the property or demolishing the structures, as the case may be. If the owners of the property decline to give consent for widening of the road, the respondent has to follow the procedure contemplated under the Land Acquisition Act for acquiring the property. Without following the same, no citizen can be deprived of the property nor any demolition can be resorted to.

With the above observations and directions, the writ petition is disposed of. No costs.

A. GOPAL REDDY. J.

10th November, 2004

tsr.

To

1 The Commissioner, Municipal Council, City Municipality, Bodhan,Nizamabad District.

2. Two C.D. copies.